



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Issued by the Department of Transportation on March 1, 2002

NOTICE OF ACTION TAKEN -- DOCKET OST-98-3740 - 9

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of Delta Air Lines, Inc. filed 1/28/02 to:

**XX** Renew for two years exemption under 49 U.S.C. 40109 to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between any point or points in the United States and any point or points in France, either directly or via intermediate points, and beyond France to any point or points in third countries,<sup>1</sup> and to integrate this authority with Delta's existing certificate and exemption authority.**

**XX** Amend authority requested above:

**To permit Delta to exercise the full scope of traffic rights available to U.S. carriers under the recently signed U.S.-France open-skies agreement.<sup>2</sup> Specifically, Delta requests that the authority be amended to authorize services:**

- 1. Between points in the United States and French Departments of America, via intermediate points and beyond;**
- 2. Between points in the United States and New Caledonia and/or Wallis and Futuna;**
- 3. Between points in the United States and French Polynesia, via intermediate points and beyond; and**
- 4. Between points in the United States and Saint-Pierre and Miquelon, via intermediate points and beyond.**

**Delta also requests that the exemption authority be amended so that Delta's services via intermediate and beyond points are not limited to blind-sector traffic. Delta states that it will use the authority requested to offer transatlantic flights between the United States and France, both with its own aircraft and in conjunction with its SkyTeam alliance partner Société Air France (Air France), as well as code-share service to several interior French points on Air France-operated flights. Delta states that it also provides third-country code-share services to points in France in conjunction with other code-share partners.**

Applicant rep: Robert E. Cohn (202) 663-8060 DOT Analyst: Linda Lundell (202) 366-2336

<sup>1</sup> This applies to routes involving Metropolitan France as set forth in the January 22, 2002, U.S.-France open-skies amendments to the U.S.-France aviation agreement.

<sup>2</sup> On January 22, 2002, the United States and France signed open-skies amendments to the June 16, 1998, Air Transport Agreement between the United States and France. The open-skies agreement provides broad rights for the designated carriers of each side, including rights to conduct the services requested by Delta here.

## DISPOSITION

**XX Granted (subject to conditions, see below) <sup>3</sup>**

The above action was effective when taken: March 1, 2002, through March 1, 2004, or until 90 days after final Department action on Delta's corresponding certificate application, in Docket OST-99-6246, whichever occurs earlier.

**Action taken by: Paul L. Gretch, Director  
Office of International Aviation**

**XX The authority granted is consistent with the aviation agreement between the United States and France.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

- XX Holder's certificates of public convenience and necessity**
- XX Standard exemption conditions (attached)**
- XX Statement of Authorization for Delta/Air France code-share operations dated August 6, 1998, and conditions therein**
- XX Statements of Authorization for Delta and authorized third-country carriers, and conditions therein**

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**Conditions:** The authority to operate via intermediate points and to third countries is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority by virtue of either the present action or other action of the Department.

The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority granted should be construed as conferring upon Delta rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the carrier notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in Delta's authority by virtue of the route integration exemption granted here, but that are not being used by Delta, the holding of such authority by route integration will not be construed as providing any preference for Delta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

**Remarks:** The original exemption authority granted in this docket imposed certain service level and traffic restrictions on U.S.-France services because of then-applicable limitations/restrictions under the U.S.-France aviation agreement. Pursuant to the January 22, 2002, U.S.-France open-skies aviation agreement, these restrictions are eliminated. Thus, those restrictions on Delta's authority here are no longer necessary.

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<sup>3</sup> The January 22, 2002, U.S.-France agreement includes certain restrictions on intermediate and beyond services on other than Metropolitan France routes. (See Section 1A of the amended Annex I route schedule as set forth in Article 1, paragraph 16 of the January 2002 agreement) The services authorized here are subject to those restrictions.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the exemption authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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*[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)*

## **APPENDIX A**

### **U.S. CARRIER** **Standard Exemption Conditions**

In the conduct of operations authorized by the attached notice, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations, including all FAA requirements concerning security; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.